

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION

DUANE B. HARRIS	§	
VS.	§	CIVIL ACTION NO. 1:05cv536
DOUGLAS DRETKE, ET AL	§	

MEMORANDUM ORDER OVERRULING OBJECTIONS AND ADOPTING THE
MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION

Plaintiff Duane B. Harris, an inmate confined at the Stiles Unit of the Texas Department of Criminal Justice, Correctional Institutions Division, proceeding *pro se*, filed the above-styled civil rights lawsuit pursuant to 42 U.S.C. § 1983.

The court referred this matter to the Honorable Earl S. Hines, United States Magistrate Judge, at Beaumont, Texas, for consideration pursuant to applicable laws and orders of this court. The magistrate judge has submitted a Report and Recommendation of United States Magistrate Judge concerning this case. The magistrate judge recommends this action be dismissed without prejudice pursuant to 28 U.S.C. § 1915(g).

The court has conducted a *de novo* review of the objections in relation to the pleadings and the applicable law. *See* FED. R. CIV. P. 72(b). After careful consideration, the court concludes the objections are without merit. Prior to the date this case was filed, courts of the United States had dismissed three cases filed by plaintiff as frivolous or for failure to state a claim upon which relief may be granted. As plaintiff's allegations do not demonstrate he was in imminent danger of serious physical harm on the date he filed his complaint,

Section 1915(g) prohibits him from proceeding with this matter on an *in forma pauperis* basis.

O R D E R

Accordingly, plaintiff's objections are **OVERRULED**. The findings of fact and conclusions of law of the magistrate judge are correct and the report of the magistrate judge is **ADOPTED**. A final judgment will be entered dismissing this action.

SIGNED at Beaumont, Texas, this 24th day of January, 2006.

A handwritten signature in black ink, reading "Marcia A. Crone". The signature is written in a cursive, flowing style. Below the signature is a horizontal line.

MARCIA A. CRONE
UNITED STATES DISTRICT JUDGE